



February 6, 2009

SENATE BILL No. 191

DIGEST OF SB 191 (Updated February 4, 2009 4:26 pm - DI 71)

Citations Affected: IC 20-26; IC 20-33.

Synopsis: Alternative placements for certain students. Allows a school corporation that determines it cannot serve a student because of the student's disruptive behavior or frequent unexcused absences to place the student in another setting. Provides that if the other setting is in another school corporation, the school corporation in which the student has legal settlement must pay the student's tuition. Sets a cap on the amount that the school corporation may expend for tuition for the student.

Effective: July 1, 2009.

Miller, Lubbers, Mrvan, Rogers

January 7, 2009, read first time and referred to Committee on Education and Career Development.
February 5, 2009, amended, reported favorably — Do Pass.

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SB 191—LS 6695/DI 71+



February 6, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 191

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-26-17 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:
4 **Chapter 17. Tuition for Alternative Placement of Certain**
5 **Students**
6 **Sec. 1. This chapter applies to a student who cannot be served**
7 **by a school for either of the following reasons:**
8 **(1) The student's disruptive behavior in class prevents the**
9 **student or other students from learning.**
10 **(2) The student has frequent unexcused absences.**
11 **Sec. 2. If a school determines that the school is unable to teach**
12 **a student described in section 1 of this chapter, the school's**
13 **principal may request the superintendent to seek an alternative**
14 **placement for the student under this chapter.**
15 **Sec. 3. (a) Upon receiving a request under section 2 of this**
16 **chapter, the superintendent shall give notice to the student and the**
17 **student's parent of their right to appear at a meeting with the**

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superintendent. Notice of the right to appear at a meeting must:

- (1) be made by certified mail or by personal delivery;
- (2) contain the reasons for the meeting; and
- (3) contain the procedure for requesting a meeting.

(b) The superintendent:

- (1) shall make a written summary of the discussion conducted and the evidence presented at the meeting;
- (2) may take action under section 4 of this chapter; and
- (3) must give notice of the action taken under subdivision (2) to the student and the student's parent.

(c) If the student or the student's parent, not later than ten (10) days after receipt of a notice of action taken under subsection (b), makes a written appeal to the governing body, the governing body:

(1) shall hold a meeting to consider:

- (A) the written summary of discussion and evidence prepared under subsection (b)(1); and
- (B) the arguments of the principal and the student or the student's parent;

unless the governing body has voted under subsection (e) not to hear appeals of actions taken under subsection (b); and

(2) may take action that the governing body finds appropriate.

The decision of the governing body may be appealed only under IC 20-33-8-21.

(d) A student or a student's parent who fails to request and appear at a meeting after receipt of notice of the right to appear at a meeting forfeits all rights administratively to contest and appeal the expulsion. For purposes of this section, notice of the right to appear at a meeting or notice of the action taken at a meeting is effectively given at the time when the request or notice is delivered personally or sent by certified mail to a student and the student's parent.

(e) The governing body may vote to not hear appeals of actions taken under subsection (b). If the governing body votes to not hear appeals, subsequent to the date on which the vote is taken, a student or parent may appeal only under IC 20-33-8-21.

Sec. 4. After giving notice and conducting a meeting under section 3 of this chapter if a meeting is requested, the superintendent may place a student described in section 1 of this chapter in any of the following:

- (1) Another school within the school corporation that the superintendent determines may successfully teach the student.
- (2) An alternative school operated by the school corporation

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or by another school corporation that the superintendent determines may successfully teach the student.

(3) A school within another school corporation that the superintendent determines may successfully teach the student.

(4) A charter school that the superintendent determines may successfully teach the student.

Sec. 5. If a student described in section 1 of this chapter is placed in a public school that is within another school corporation, the school corporation in which the student has legal settlement is responsible for paying tuition for the student. However, a school corporation may not expend more than the amount determined under IC 20-26-11-13(b) as tuition for the student.

Sec. 6. Except as provided in IC 20-35-8, the school corporation in which the student has legal settlement and the school corporation in which a school is located that may successfully teach the student are not responsible for providing transportation to the student.

Sec. 7. A student described in section 1 of this chapter may not be excluded from the student's school until another placement is found for the student under this chapter.

SECTION 2. IC 20-33-8-21, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. Judicial review of a governing body's action under this chapter **and IC 20-26-17-3** by the circuit or superior court of the county in which a student who is the subject of the governing body's action resides is limited to the issue of whether the governing body acted without following the procedure required under this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 191, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, after "3." insert "(a)".

Page 1, line 15, after "chapter," insert **"the superintendent shall give notice to the student and the student's parent of their right to appear at a meeting with the superintendent. Notice of the right to appear at a meeting must:**

- (1) be made by certified mail or by personal delivery;**
- (2) contain the reasons for the meeting; and**
- (3) contain the procedure for requesting a meeting.**

(b) The superintendent:

- (1) shall make a written summary of the discussion conducted and the evidence presented at the meeting;**
- (2) may take action under section 4 of this chapter; and**
- (3) must give notice of the action taken under subdivision (2) to the student and the student's parent.**

(c) If the student or the student's parent, not later than ten (10) days after receipt of a notice of action taken under subsection (b), makes a written appeal to the governing body, the governing body:

(1) shall hold a meeting to consider:

- (A) the written summary of discussion and evidence prepared under subsection (b)(1); and**
- (B) the arguments of the principal and the student or the student's parent;**

unless the governing body has voted under subsection (e) not to hear appeals of actions taken under subsection (b); and

(2) may take action that the governing body finds appropriate.

The decision of the governing body may be appealed only under IC 20-33-8-21.

(d) A student or a student's parent who fails to request and appear at a meeting after receipt of notice of the right to appear at a meeting forfeits all rights administratively to contest and appeal the expulsion. For purposes of this section, notice of the right to appear at a meeting or notice of the action taken at a meeting is effectively given at the time when the request or notice is delivered personally or sent by certified mail to a student and the student's parent.

(e) The governing body may vote to not hear appeals of actions

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taken under subsection (b). If the governing body votes to not hear appeals, subsequent to the date on which the vote is taken, a student or parent may appeal only under IC 20-33-8-21.

Sec. 4. After giving notice and conducting a meeting under section 3 of this chapter if a meeting is requested,".

Page 2, line 8, delete "nonpublic" and insert "**charter**".

Page 2, line 10, delete "4." and insert "**5.**".

Page 2, line 11, delete "in:" and insert "**in**".

Page 2, line 12, delete "(1)".

Page 2, line 12, delete "corporation;" and insert "**corporation,**".

Page 2, delete lines 13 through 14.

Page 2, run in lines 11 through 15.

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"Sec. 6. Except as provided in IC 20-35-8, the school corporation in which the student has legal settlement and the school corporation in which a school is located that may successfully teach the student are not responsible for providing transportation to the student."

Page 2, line 19, delete "5." and insert "**7.**".

Page 2, after line 21, begin a new paragraph and insert:

"SECTION 2. IC 20-33-8-21, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. Judicial review of a governing body's action under this chapter **and IC 20-26-17-3** by the circuit or superior court of the county in which a student who is the subject of the governing body's action resides is limited to the issue of whether the governing body acted without following the procedure required under this chapter."

and when so amended that said bill do pass.

(Reference is to SB 191 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 7, Nays 3.

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